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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/382,374	08/24/1999	JEFFRY JOVAN PHILYAW	PHLY-24.736	5135

25883 7590 10/21/2003

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EXAMINER
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DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/382,374

Applicant(s)

PHILYAW ET AL.

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-15 have been examined.

**Continued Examination Under 37 CFR 1.114**

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/6/03 has been entered.

***Response to Amendment***

3. The Amendment filed on is sufficient to overcome the Palmer (5,438,355), Aijala (5,579,124), and Tsai (5,947,746) reference.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1, 5, 7-11, 13, 15 are rejected under 35 U.S.C. 102(b) as being unpatentable over Tognazzini (5,708,478).

Claim 1, 10: Tognazzini discloses a method, system for launching an advertisement on a computer, comprising:

a computer having an audio input interface and a display (Fig. 3; col 7, lines 50-60),  
an audio output acoustically coupled from a receiver of a broadcast source to said audio input interface for providing an audio signal having encoded therein advertisement information (col 7, lines 50-60; col 3, lines 35-50; col 3, line 63-col 4, line 2),

and a computer program operable on said computer and responsive to said audio signal output from said receiver of said broadcast source to allow said computer program to be controlled by said advertisement information (col 3, lines 35-50; col 3, line 63-col 4, line 2; col 5, lines 25-45; col 4, lines 8-11).

Claim 5: Tognazzini discloses the system of claim 1, wherein said audio output comprises:

a broadcast or recorded program including said advertisement encoded in an audio component of said program (col 3, line 65-col 4, line 2; col 1, line 19-26).

Claim 7, 13: Tognazzini discloses the system, method of claim 1, 10 wherein said advertisement includes:

information selected from the group consisting of product identity, product description, manufacturer identity, advertising messages or program execution commands (col 4, lines 1-14).

Claim 8, 15: Tognazzini discloses the system, method of claim 1, wherein said program comprises:

A program for accessing advertising information coupled from said receiver of said broadcast source,

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Means for decoding advertising information encoded in said audio signal (col 3, line 65-col 4, line 2),

And means for launching said advertisement on said display of said computer (col 4, lines 5-8; col 16, lines 6-10; col 3, lines 14-18).

Claim 9: Tognazzini discloses the system of claim 8, wherein said means for launching comprises:

Means for coupling said computer to said display (col 16, lines 6-10; col 3, lines 14-18).

Claim 11: Tognazzini discloses the method of claim 10, and further discloses providing an audio input interface for receiving the audio signal output from the receiver of the broadcast source,

Converting the received audio signal to a form readable by the computer,

And transmitting converted audio signal information to the computer (col 3, line 63-col 4, line 2; col 5, lines 25-35; col 6, lines 1-10).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2, 3, 4, 6, 12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tognazzini (5,708,478) in view of McKiel (5,133,011).

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Claim 2, 3, 12: Tognazzini discloses the system of claim 1.

Tognazzini further discloses that said audio input interface comprises:  
a circuit for converting said audio signal output coupled from said receiver of said broadcast source into a form for processing by said computer (col 3, line 63-col 4, line 2; col 5, lines 25-35; col 6, lines 1-10).

Tognazzini does not explicitly disclose that the form is digital.

However, McKiel discloses converting an audio signal into digital form (col 4, lines 25-33).

McKiel further discloses an audio circuit having an input coupled to a microphone and an output (Fig. 1), and an A/D converter coupled to said output wherein an output of said A/D converter is couples to a system bus of said computer (col 4, lines 25-33).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add McKiel's analog to digital converter to Tognazzini's computer that receives an audio signal's analyzes, processes it, and performs computer functions and analysis on it. One would have been motivated to do this because a computer can manipulate data more effectively when the data is in digital form that a computer needs to perform functions with.

Claim 4, 6, 14: Tognazzini discloses the system, method of claim 10.

Tognazzini further discloses that said audio signal output comprises:

a sound effect selected from the group consisting of superaudible tones (col 5, lines 57-61; col 10, lines 5-9).

Tognazzini does not explicitly disclose audible tones, clapping, whistling.

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However, McKiel discloses that said audio signal output can be a sound effect such as audible tones, clapping, whistling, or a combination thereof (col 1, lines 20-29).

Tognazzini does not explicitly disclose an audible signal for initiating execution by said program in said computer.

However, McKiel discloses an audible signal for initiating execution by said program in said computer (col 1, lines 20-29).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add McKiel's audible signals to Tognazzini's computer that receives an audio signal, analyzes it, and performs computer functions. One would have been motivated to do this because an audible signal is a form of audio signal and audible signals are a form of broadcast useful in some applications or systems.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety that is being referred to.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (703)305-4687. The examiner can normally be reached on Mon- Fri, 7:30-4:00.

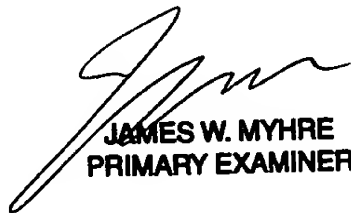
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703)305-8469. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

Ad

10/14/03

  
**JAMES W. MYHRE**  
**PRIMARY EXAMINER**